

AMENDED IN SENATE AUGUST 12, 2008

AMENDED IN SENATE AUGUST 4, 2008

AMENDED IN SENATE JULY 1, 2008

AMENDED IN SENATE JUNE 18, 2008

AMENDED IN SENATE JUNE 16, 2008

AMENDED IN ASSEMBLY MARCH 25, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2911

Introduced by Assembly Member Wolk
(Coauthors: Assembly Members Beall, Hancock, Huffman, Leno,
Lieber, Mullin, Nava, Ruskin, Swanson, and Torrico)

February 22, 2008

An act to amend Section 5655 of the Fish and Game Code, to amend Sections 8574.8, 8670.3, 8670.25, 8670.37.5, 8670.40, 8670.48, 8670.56.5, ~~8670.56.6~~, 8670.61.5, 8670.63, 8670.66, 8670.67, and 8670.67.5 of, and to add Section 8670.69.7 to, the Government Code, relating to oil spills, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2911, as amended, Wolk. Oil spill prevention and response: inland spills: wildlife contaminations.

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including drills and preparedness, and oil spill

containment and cleanup, and to represent the state in any coordinated response efforts with the federal government.

Existing law defines various terms for the purposes of the act.

This bill would additionally define “inland spill” and “inland waters” for the purposes of the act. The bill would require the Administrator of the Office of Spill Prevention and Response, by January 1, 2010, to submit to the Governor and the Legislature an amended California oil spill contingency plan consisting of both marine and inland oil spill contingency planning sections. The bill would revise provisions regarding *containment, cleanup, and removal requirements for oil discharges*, liability for damages caused by oil spills, and administrative and civil penalties to include inland spills. The bill would also increase administrative and civil penalties for spills in marine waters.

This bill would provide that any penalties collected with respect to inland spills shall be deposited in the Fish and Wildlife Pollution Account, which is a continuously appropriated fund, and shall be available for specified purposes. By increasing the sources of funds for a continuously appropriated fund, the bill would make an appropriation.

Existing law requires the administrator to establish a network of rescue and rehabilitation stations for sea birds and marine mammals.

This bill would provide that, in addition to rehabilitative care, the primary focus of the Oiled Wildlife Care Network shall include proactive oiled wildlife search and collection rescue efforts. The bill would also require the administrator to ensure the state’s ability to prevent the contamination of wildlife and to identify, collect, rescue, and treat oiled wildlife according to specified requirements, including training of volunteers, stocking emergency equipment for rescue, and providing additional staffing.

Existing law imposes the oil spill prevention and administration fee on persons owning crude oil or petroleum products at a marine terminal. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, money in the fund is available for specified purposes.

This bill would provide that those moneys shall also be available to cover costs incurred by the Oiled Wildlife Care Network for training and field collection, and search and rescue activities.

Existing law imposes a uniform oil spill response fee on specified persons owning petroleum products during any period that the Oil Spill Response Trust Fund contains less than a designated amount. The money in the fund is continuously appropriated for specified purposes. Existing

law requires the administrator to submit as a proposed appropriation in the Governor's Budget, an amount up to \$1.5 million of the interest earned on the funds deposited into the Oil Spill Response Trust Fund, for the purpose of equipping, operating, and maintaining the network of oiled wildlife rescue and rehabilitation stations.

This bill would instead require the administrator to submit as a proposed appropriation an amount up to \$2 million of the interest earned on the funds in the Oil Spill Response Trust Fund, thereby making an appropriation.

Existing law authorizes the Department of Fish and Game to clean up or abate, or cause to be cleaned up or abated, the effects of any petroleum or petroleum product deposited or discharged in the waters of the state or in any onshore or offshore location where the petroleum or petroleum product is likely to enter the waters of the state, or order any person responsible for the deposit or discharge to clean up or abate the effects, and recover any costs incurred for the clean up or abatement from the responsible party.

This bill would give the Administrator of the Office of Spill Prevention and Response the primary authority to serve as a State Incident Commander and direct removal, abatement, response, containment, and cleanup efforts with regard to all aspects of any placement of petroleum or a petroleum product in the waters of the state, as provided.

This bill would incorporate additional changes in Sections 8670.3 and 8670.48 of the Government Code, proposed by AB 2547, to be operative only if AB 2547 and this bill are both chaptered and become effective on or before January 1, 2009, and this bill is chaptered last.

This bill would incorporate additional changes in Section 8670.40 of the Government Code, proposed by AB 2032, to be operative only if AB 2032 and this bill are both chaptered and become effective on or before January 1, 2009, and this bill is chaptered last.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The existing network of rescue and rehabilitation stations
- 4 established by the state to care for oiled wildlife in the event of oil

1 spills, and the professional staff and volunteers who have spent
2 many hours caring for oiled birds, are to be commended and
3 recognized for their work and for their success in releasing treated
4 birds back into the wild.

5 (b) The state's capacity to conduct search and collection for
6 rescue of oiled wildlife should be strengthened and improved to
7 ensure that, to the extent feasible, the maximum number of oiled
8 wildlife are collected and receive timely and effective treatment,
9 thus ensuring the best achievable standard for oiled wildlife.

10 (c) The state should enhance its capacity for oiled wildlife
11 response, including the provision of pretrained personnel and
12 emergency equipment readily available for deployment, to do all
13 of the following:

14 (1) Prevent wildlife from being contaminated by spilled oil.

15 (2) Collect live oiled wildlife for treatment through proactive
16 search and collection efforts.

17 (3) Ensure that appropriate pretraining and equipment are
18 provided to staff, volunteers, and representatives from local
19 agencies that may be enlisted to assist the state in collecting oiled
20 wildlife in future spills.

21 (d) The state's capacity to prevent wildlife from being
22 contaminated by spilled oil, and to rescue and provide rehabilitative
23 care to oiled wildlife, can be significantly enhanced through an
24 expanded program for advanced recruitment and pretraining of
25 volunteers in hazardous materials handling and wildlife collection,
26 and the provision of emergency field collection equipment in
27 strategic locations where it can be readily deployed in the case of
28 a spill. The capacity of the Oiled Wildlife Care Network to provide
29 wildlife care and rehabilitation may be significantly enhanced by
30 a ready pool of pretrained volunteers, with more highly trained
31 volunteers performing more complex tasks and convergent
32 volunteers playing vital support roles.

33 (e) It is the intent of the Legislature that the Office of Spill
34 Prevention and Response increase the number of pretrained
35 individuals available for immediate deployment in the event of an
36 oil spill to assist in proactive wildlife search and rescue efforts,
37 and ensure that all wildlife recovery teams are supervised by
38 qualified personnel with appropriate training and experience in
39 wildlife handling and search and rescue techniques.

1 SEC. 2. Section 5655 of the Fish and Game Code is amended
2 to read:

3 5655. (a) In addition to the responsibilities imposed pursuant
4 to Section 5651, the department may clean up or abate, or cause
5 to be cleaned up or abated, the effects of any petroleum or
6 petroleum product deposited or discharged in the waters of this
7 state or deposited or discharged in any location onshore or offshore
8 where the petroleum or petroleum product is likely to enter the
9 waters of this state, order any person responsible for the deposit
10 or discharge to clean up the petroleum or petroleum product or
11 abate the effects of the deposit or discharge, and recover any costs
12 incurred as a result of the cleanup or abatement from the
13 responsible party.

14 (b) An order shall not be issued pursuant to this section for the
15 cleanup or abatement of petroleum products in any sump, pond,
16 pit, or lagoon used in conjunction with crude oil production that
17 is in compliance with all applicable state and federal laws and
18 regulations.

19 (c) The department may issue an order pursuant to this section
20 only if there is an imminent and substantial endangerment to human
21 health or the environment and the order shall remain in effect only
22 until any cleanup and abatement order is issued pursuant to Section
23 13304 of the Water Code. A regional water quality control board
24 shall incorporate the department's order into the cleanup and
25 abatement order issued pursuant to Section 13304 of the Water
26 Code, unless the department's order is inconsistent with any more
27 stringent requirement established in the cleanup and abatement
28 order. Any action taken in compliance with the department's order
29 is not a violation of any subsequent regional water quality control
30 board cleanup and abatement order issued pursuant to Section
31 13304 of the Water Code.

32 (d) The Administrator of the Office of Spill Prevention and
33 Response has the primary authority to serve as a State Incident
34 Commander and direct removal, abatement, response, containment,
35 and cleanup efforts with regard to all aspects of any placement of
36 petroleum or a petroleum product in the waters of the state, except
37 as otherwise provided by law. This authority may be delegated.

38 (e) For purposes of this ~~section, "petroleum product"~~ *section,*
39 *the following definitions apply:*

(1) “*Petroleum product*” means oil in any kind or form, including, but not limited to, fuel oil, sludge, oil refuse, and oil mixed with waste other than dredged spoil. “Petroleum product” does not include any pesticide that has been applied for agricultural, commercial, or industrial purposes or has been applied in accordance with a cooperative agreement authorized by Section 116180 of the Health and Safety Code, that has not been discharged accidentally or for purposes of disposal, and whose application was in compliance with all applicable state and federal laws and regulations.

(2) “*State incident commander*” means a person with the overall authority for managing and conducting incident operations during an oil spill response, who shall manage an incident consistent with the standardized emergency management system required by Section 8607 of the Government Code. Incident management generally includes the development of objectives, strategies and tactics, ordering and release of resources, and coordination with other appropriate response agencies to ensure that all appropriate resources are properly utilized and that this coordinating function is performed in a manner designated to minimize risk to other persons and to the environment.

SEC. 3. Section 8574.8 of the Government Code is amended to read:

8574.8. (a) The administrator shall submit to the Governor and the Legislature an amended California oil spill contingency plan required, pursuant to Section 8574.7, by January 1, ~~2010~~ 1993. The administrator shall thereafter submit revised plans every three years, until the amended plan required pursuant to subdivision (b) is submitted.

(b) The administrator shall submit to the Governor and the Legislature an amended California oil spill contingency plan required pursuant to Section 8574.7, by January 1, 2010, that consists of both a marine oil spill contingency planning section and an inland oil spill contingency planning section. The administrator shall thereafter submit revised plans every three years.

SEC. 4. Section 8670.3 of the Government Code is amended to read:

8670.3. Unless the context requires otherwise, the following definitions shall govern the construction of this chapter:

1 (a) “Administrator” means the administrator for oil spill response
2 appointed by the Governor pursuant to Section 8670.4.

3 (b) (1) “Best achievable protection” means the highest level of
4 protection that can be achieved through both the use of the best
5 achievable technology and those manpower levels, training
6 procedures, and operational methods that provide the greatest
7 degree of protection achievable. The administrator’s determination
8 of which measures provide the best achievable protection shall be
9 guided by the critical need to protect valuable coastal resources
10 and marine waters, while also considering all of the following:

11 (A) The protection provided by the measure.

12 (B) The technological achievability of the measure.

13 (C) The cost of the measure.

14 (2) The administrator shall not use a cost-benefit or
15 cost-effectiveness analysis or any particular method of analysis in
16 determining which measures provide the best achievable protection.
17 The administrator shall instead, when determining which measures
18 provide best achievable protection, give reasonable consideration
19 to the protection provided by the measures, the technological
20 achievability of the measures, and the cost of the measures when
21 establishing the requirements to provide the best achievable
22 protection for coastal and marine resources.

23 (c) (1) “Best achievable technology” means that technology
24 that provides the greatest degree of protection, taking into
25 consideration both of the following:

26 (A) Processes that are being developed, or could feasibly be
27 developed anywhere in the world, given overall reasonable
28 expenditures on research and development.

29 (B) Processes that are currently in use anywhere in the world.

30 (2) In determining what is the best achievable technology
31 pursuant to this chapter, the administrator shall consider the
32 effectiveness and engineering feasibility of the technology.

33 (d) “Dedicated response resources” means equipment and
34 personnel committed solely to oil spill response, containment, and
35 cleanup that are not used for any other activity that would adversely
36 affect the ability of that equipment and personnel to provide oil
37 spill response services in the timeframes for which the equipment
38 and personnel are rated.

39 (e) “Director” means the Director of Fish and Game.

1 (f) “Environmentally sensitive area” means an area defined
2 pursuant to the applicable area contingency plans, as created and
3 revised by the Coast Guard and the administrator.

4 (g) “Inland spill” means a release of at least one barrel (42
5 gallons) of oil into inland waters that is not authorized by any
6 federal, state, or local governmental entity.

7 (h) “Inland waters” means waters of the state other than marine
8 waters, but not including groundwater.

9 (i) “Local government” means a chartered or general law city,
10 a chartered or general law county, or a city and county.

11 (j) (1) “Marine facility” means any facility of any kind, other
12 than a tank ship or tank barge, that is or was used for the purposes
13 of exploring for, drilling for, producing, storing, handling,
14 transferring, processing, refining, or transporting oil and is located
15 in marine waters, or is located where a discharge could impact
16 marine waters unless the facility is either of the following:

17 (A) Subject to Chapter 6.67 (commencing with Section 25270)
18 or Chapter 6.75 (commencing with Section 25299.10) of Division
19 20 of the Health and Safety Code.

20 (B) Placed on a farm, nursery, logging site, or construction site
21 and does not exceed 20,000 gallons in a single storage tank.

22 (2) For the purposes of this chapter, “marine facility” includes
23 a drill ship, semisubmersible drilling platform, jack-up type drilling
24 rig, or any other floating or temporary drilling platform.

25 (3) For the purposes of this chapter, “marine facility” does not
26 include a small craft refueling dock.

27 (k) (1) “Marine terminal” means any marine facility used for
28 transferring oil to or from a tank ship or tank barge.

29 (2) “Marine terminal” includes, for purposes of this chapter, all
30 piping not integrally connected to a tank facility, as defined in
31 subdivision (m) of Section 25270.2 of the Health and Safety Code.

32 (l) “Marine waters” means those waters subject to tidal
33 influence, and includes the waterways used for waterborne
34 commercial vessel traffic to the Port of Sacramento and the Port
35 of Stockton.

36 (m) “Mobile transfer unit” means a small marine fueling facility
37 that is a vehicle, truck, or trailer, including all connecting hoses
38 and piping, used for the transferring of oil at a location where a
39 discharge could impact marine waters.

1 (n) “Nondedicated response resources” means those response
2 resources identified by an Oil Spill Response Organization for oil
3 spill response activities that are not dedicated response resources.

4 (o) “Nonpersistent oil” means a petroleum-based oil, such as
5 gasoline, diesel, or jet fuel, that evaporates relatively quickly and
6 is an oil with hydrocarbon fractions, at least 50 percent of which,
7 by volume, distills at a temperature of 645° Fahrenheit, and at least
8 95 percent of which, by volume, distills at a temperature of 700°
9 Fahrenheit.

10 (p) “Nontank vessel” means a vessel of 300 gross tons or greater
11 that carries oil, but does not carry that oil as cargo.

12 (q) “Oil” means any kind of petroleum, liquid hydrocarbons,
13 or petroleum products or any fraction or residues therefrom,
14 including, but not limited to, crude oil, bunker fuel, gasoline, diesel
15 fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and
16 liquid distillates from unprocessed natural gas.

17 (r) “Oil spill cleanup agent” means a chemical, or any other
18 substance, used for removing, dispersing, or otherwise cleaning
19 up oil or any residual products of petroleum in, or on, any of the
20 waters of the state.

21 (s) “Oil spill contingency plan” or “contingency plan” means
22 the oil spill contingency plan required pursuant to Article 5
23 (commencing with Section 8670.28).

24 (t) (1) “Oil Spill Response Organization” or “OSRO” means
25 an individual, organization, association, cooperative, or other entity
26 that provides, or intends to provide, equipment, personnel, supplies,
27 or other services directly related to oil spill containment, cleanup,
28 or removal activities.

29 (2) A “rated OSRO” means an OSRO that has received a
30 satisfactory rating from the administrator for a particular rating
31 level established pursuant to Section 8670.30.

32 (3) “OSRO” does not include an owner or operator with an oil
33 spill contingency plan approved by the administrator or an entity
34 that only provides spill management services, or who provides
35 services or equipment that are only ancillary to containment,
36 cleanup, or removal activities.

37 (u) “Onshore facility” means a facility of any kind that is located
38 entirely on lands not covered by marine waters.

39 (v) (1) “Owner” or “operator” means any of the following:

1 (A) In the case of a vessel, a person who owns, has an ownership
2 interest in, operates, charters by demise, or leases, the vessel.

3 (B) In the case of a marine facility, a person who owns, has an
4 ownership interest in, or operates the marine facility.

5 (C) Except as provided in subparagraph (D), in the case of a
6 vessel or marine facility, where title or control was conveyed due
7 to bankruptcy, foreclosure, tax delinquency, abandonment, or
8 similar means to an entity of state or local government, a person
9 who owned, held an ownership interest in, operated, or otherwise
10 controlled activities concerning the vessel or marine facility
11 immediately beforehand.

12 (D) An entity of the state or local government that acquired
13 ownership or control of a vessel or marine facility, when the entity
14 of the state or local government has caused or contributed to a spill
15 or discharge of oil into marine waters.

16 (2) “Owner” or “operator” does not include a person who,
17 without participating in the management of a vessel or marine
18 facility, holds indicia of ownership primarily to protect the person’s
19 security interest in the vessel or marine facility.

20 (3) “Operator” does not include a person who owns the land
21 underlying a marine facility or the facility itself if the person is
22 not involved in the operations of the facility.

23 (w) “Person” means an individual, trust, firm, joint stock
24 company, or corporation, including, but not limited to, a
25 government corporation, partnership, and association. “Person”
26 also includes a city, county, city and county, district, and the state
27 or any department or agency thereof, and the federal government,
28 or any department or agency thereof, to the extent permitted by
29 law.

30 (x) “Pipeline” means a pipeline used at any time to transport
31 oil.

32 (y) “Reasonable worst case spill” means, for the purposes of
33 preparing contingency plans for a nontank vessel, the total volume
34 of the largest fuel tank on the nontank vessel.

35 (z) “Responsible party” or “party responsible” means any of
36 the following:

37 (1) The owner or transporter of oil or a person or entity accepting
38 responsibility for the oil.

1 (2) The owner, operator, or lessee of, or a person that charters
2 by demise, a vessel or marine facility, or a person or entity
3 accepting responsibility for the vessel or marine facility.

4 (aa) “Small craft” means a vessel, other than a tank ship or tank
5 barge, that is less than 20 meters in length.

6 (ab) “Small craft refueling dock” means a waterside operation
7 that dispenses only nonpersistent oil in bulk and small amounts of
8 persistent lubrication oil in containers primarily to small craft and
9 meets both of the following criteria:

10 (1) Has tank storage capacity not exceeding 20,000 gallons in
11 any single storage tank or tank compartment.

12 (2) Has total usable tank storage capacity not exceeding 75,000
13 gallons.

14 (ac) “Small marine fueling facility” means either of the
15 following:

16 (1) A mobile transfer unit.

17 (2) A fixed facility that is not a marine terminal, that dispenses
18 primarily nonpersistent oil, that may dispense small amounts of
19 persistent oil, primarily to small craft, and that meets all of the
20 following criteria:

21 (A) Has tank storage capacity greater than 20,000 gallons but
22 not more than 40,000 gallons in any single storage tank or storage
23 tank compartment.

24 (B) Has total usable tank storage capacity not exceeding 75,000
25 gallons.

26 (C) Had an annual throughput volume of over-the-water transfers
27 of oil that did not exceed 3,000,000 gallons during the most recent
28 preceding 12-month period.

29 (ad) “Spill” or “discharge” means a release of at least one barrel
30 (42 gallons) of oil into marine waters that is not authorized by a
31 federal, state, or local government entity.

32 (ae) “State Interagency Oil Spill Committee” means the
33 committee established pursuant to Article 3.5 (commencing with
34 Section 8574.1) of Chapter 7.

35 (af) “California oil spill contingency plan” means the California
36 oil spill contingency plan prepared pursuant to Article 3.5
37 (commencing with Section 8574.1) of Chapter 7.

38 (ag) “Tank barge” means a vessel that carries oil in commercial
39 quantities as cargo but is not equipped with a means of
40 self-propulsion.

1 (ah) “Tank ship” means a self-propelled vessel that is
2 constructed or adapted for the carriage of oil in bulk or in
3 commercial quantities as cargo.

4 (ai) “Tank vessel” means a tank ship or tank barge.

5 (aj) “Vessel” means a watercraft or ship of any kind, including
6 every structure adapted to be navigated from place to place for the
7 transportation of merchandise or persons.

8 (ak) “Vessel carrying oil as secondary cargo” means a vessel
9 that does not carry oil as a primary cargo, but does carry oil in
10 bulk as cargo or cargo residue.

11 *SEC. 4.5. Section 8670.3 of the Government Code is amended*
12 *to read:*

13 8670.3. Unless the context requires otherwise, the following
14 definitions shall govern the construction of this chapter:

15 (a) “Administrator” means the administrator for oil spill response
16 appointed by the Governor pursuant to Section 8670.4.

17 (b) (1) “Best achievable protection” means the highest level of
18 protection that can be achieved through both the use of the best
19 achievable technology and those manpower levels, training
20 procedures, and operational methods that provide the greatest
21 degree of protection achievable. The administrator’s determination
22 of which measures provide the best achievable protection shall be
23 guided by the critical need to protect valuable coastal resources
24 and marine waters, while also considering all of the following:

25 (A) The protection provided by the measure.

26 (B) The technological achievability of the measure.

27 (C) The cost of the measure.

28 (2) The administrator shall not use a cost-benefit or
29 cost-effectiveness analysis or any particular method of analysis in
30 determining which measures provide the best achievable protection.
31 The administrator shall instead, when determining which measures
32 provide best achievable protection, give reasonable consideration
33 to the protection provided by the measures, the technological
34 achievability of the measures, and the cost of the measures when
35 establishing the requirements to provide the best achievable
36 protection for coastal and marine resources.

37 (c) (1) “Best achievable technology” means that technology
38 that provides the greatest degree of protection, taking into
39 consideration both of the following:

1 (A) Processes that are being developed, or could feasibly be
2 developed anywhere in the world, given overall reasonable
3 expenditures on research and development.

4 (B) Processes that are currently in use *or contained in any oil*
5 *spill contingency or response plan* anywhere in the world.

6 (C) *This subdivision does not require that a particular*
7 *technology shall first be used elsewhere in the world prior to being*
8 *required for use or deployment by the administrator.*

9 (2) In determining what is the best achievable technology
10 pursuant to this chapter, the administrator shall consider the
11 effectiveness and engineering feasibility of the technology.

12 (d) (1) “Dedicated response resources” means equipment and
13 personnel committed solely to oil spill response, containment, and
14 cleanup that are not used for any other activity that would adversely
15 affect the ability of that equipment and personnel to provide oil
16 spill response services in the timeframes for which the equipment
17 and personnel are rated.

18 (2) *For the port areas, as defined in area contingency plans of*
19 *San Francisco, Los Angeles/Long Beach, and San Diego,*
20 *“dedicated response resources” shall, in addition to the other*
21 *criteria in this subdivision, mean equipment and personnel*
22 *permanently located in each of those areas. Personnel may be*
23 *characterized as a dedicated resource only when on duty or on*
24 *call. On-call personnel may be characterized as a dedicated*
25 *resource if an on-call employee is all of the following:*

26 (A) *Required to wear a functioning pager or other means of*
27 *immediate communication at all times.*

28 (B) *Required to remain in close geographic proximity to the*
29 *OSRO’s facility or nonpersonnel dedicated response resource so*
30 *as to ensure that regulatory response times are met.*

31 (C) *Required to carry approved work clothing and necessary*
32 *identification to access the OSRO’s facility or the site of a spill.*

33 (D) *Required to maintain the United States Coast Guard fitness*
34 *for duty requirements referenced in Part 95 of Title 33 of the Code*
35 *of Federal Regulations.*

36 (e) *“Director” means the Director of Fish and Game.*

37 ~~(e)~~

38 (f) “Environmentally sensitive area” means an area defined
39 pursuant to the applicable area contingency plans, as created and
40 revised by the Coast Guard and the administrator.

1 (g) “Inland spill” means a release of at least one barrel (42
2 gallons) of oil into inland waters that is not authorized by any
3 federal, state, or local governmental entity.

4 (h) “Inland waters” means waters of the state other than marine
5 waters, but not including groundwater.

6 ~~(f)~~

7 (i) “Local government” means ~~any~~ a chartered or general law
8 city, a chartered or general law county, or ~~any~~ a city and county.

9 ~~(g)~~

10 (j) (1) “Marine facility” means any facility of any kind, other
11 than a tank ship or tank barge, that is or was used for the purposes
12 of exploring for, drilling for, producing, storing, handling,
13 transferring, processing, refining, or transporting oil and is located
14 in marine waters, or is located where a discharge could impact
15 marine waters unless the facility is either of the following:

16 (A) Subject to Chapter 6.67 (commencing with Section 25270)
17 or Chapter 6.75 (commencing with Section 25299.10) of Division
18 20 of the Health and Safety Code.

19 (B) Placed on a farm, nursery, logging site, or construction site
20 and does not exceed 20,000 gallons in a single storage tank.

21 (2) For the purposes of this chapter, “marine facility” includes
22 a drill ship, semisubmersible drilling platform, jack-up type drilling
23 rig, or any other floating or temporary drilling platform.

24 (3) For the purposes of this chapter, “marine facility” does not
25 include a small craft refueling dock.

26 ~~(h)~~

27 (k) (1) “Marine terminal” means ~~any~~ a marine facility used for
28 transferring oil to or from a tank ship or tank barge.

29 (2) “Marine terminal” includes, for purposes of this chapter, all
30 piping not integrally connected to a tank facility, as defined in
31 subdivision ~~(l)~~ (m) of Section 25270.2 of the Health and Safety
32 Code.

33 ~~(i)~~

34 (l) “Marine waters” means those waters subject to tidal
35 influence, and includes the waterways used for waterborne
36 commercial vessel traffic to the Port of Sacramento and the Port
37 of Stockton.

38 ~~(j)~~

39 (m) “Mobile transfer unit” means a small marine fueling facility
40 that is a vehicle, truck, or trailer, including all connecting hoses

1 and piping, used for the transferring of oil at a location where a
2 discharge could impact marine waters.

3 ~~(k)~~

4 (n) “Nondedicated response resources” means those response
5 resources identified by an Oil Spill Response Organization for oil
6 spill response activities that are not dedicated response resources.
7 *Identified response resources located outside of California are*
8 *nondedicated response resources.*

9 ~~(t)~~

10 (o) “Nonpersistent oil” means a petroleum-based oil, such as
11 gasoline, diesel, or jet fuel, that evaporates relatively quickly and
12 is an oil with hydrocarbon fractions, at least 50 percent of which,
13 by volume, distills at a temperature of 645° Fahrenheit, and at least
14 95 percent of which, by volume, distills at a temperature of 700°
15 Fahrenheit.

16 ~~(m)~~

17 (p) “Nontank vessel” means a vessel of 300 gross tons or greater
18 that carries oil, but does not carry that oil as cargo.

19 ~~(n)~~

20 (q) “Oil” means any kind of petroleum, liquid hydrocarbons,
21 or petroleum products or any fraction or residues therefrom,
22 including, but not limited to, crude oil, bunker fuel, gasoline, diesel
23 fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and
24 liquid distillates from unprocessed natural gas.

25 ~~(o)~~

26 (r) “Oil spill cleanup agent” means a chemical, or any other
27 substance, used for removing, dispersing, or otherwise cleaning
28 up oil or any residual products of petroleum in, or on, any of the
29 waters of the state.

30 ~~(p)~~

31 (s) “Oil spill contingency plan” or “contingency plan” means
32 the oil spill contingency plan required pursuant to Article 5
33 (commencing with Section 8670.28).

34 ~~(q)~~

35 (t) (1) “Oil Spill Response Organization” or “OSRO” means
36 an individual, organization, association, cooperative, or other entity
37 that provides, or intends to provide, equipment, personnel, supplies,
38 or other services directly related to oil spill containment, cleanup,
39 or removal activities.

(2) A “rated OSRO” means an OSRO that has received a satisfactory rating from the administrator for a particular rating level established pursuant to Section 8670.30.

(3) “OSRO” does not include an owner or operator with an oil spill contingency plan approved by the administrator or an entity that only provides spill management services, or who provides services or equipment that are only ancillary to containment, cleanup, or removal activities.

(~~r~~)

(u) “Onshore facility” means ~~any~~ a facility of any kind ~~which~~ that is located entirely on lands not covered by marine waters.

(~~s~~)

(v) (1) “Owner” or “operator” means any of the following:

(A) In the case of a vessel, ~~any~~ a person who owns, has an ownership interest in, operates, charters by demise, or leases, the vessel.

(B) In the case of a marine facility, ~~any~~ a person who owns, has an ownership interest in, or operates the marine facility.

(C) Except as provided in subparagraph (D), in the case of ~~any~~ a vessel or marine facility, *where* title or control ~~of which~~ was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to an entity of state or local government, ~~any~~ a person who owned, held an ownership interest in, operated, or otherwise controlled activities concerning the vessel or marine facility immediately beforehand.

(D) An entity of the state or local government that acquired ownership or control of a vessel or marine facility, when the entity of the state or local government has caused or contributed to a spill or discharge of oil into marine waters.

(2) “Owner” or “operator” does not include a person who, without participating in the management of a vessel or marine facility, holds indicia of ownership primarily to protect ~~his or her~~ the person’s security interest in the vessel or marine facility.

(3) “Operator” does not include ~~any~~ a person who owns the land underlying a marine facility or the facility itself if the person is not involved in the operations of the facility.

(~~t~~)

(w) “Person” means ~~any~~ an individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. “Person”

1 also includes ~~any~~ a city, county, city and county, district, and the
2 state or any department or agency thereof, and the federal
3 government, or any department or agency thereof, to the extent
4 permitted by law.

5 ~~(u)~~

6 (x) “Pipeline” means ~~any~~ a pipeline used at any time to transport
7 oil.

8 ~~(v)~~

9 (y) “Reasonable worst case spill” means, for the purposes of
10 preparing contingency plans for a nontank vessel, the total volume
11 of the largest fuel tank on the nontank vessel.

12 ~~(w)~~

13 (z) “Responsible party” or “party responsible” means any of the
14 following:

15 (1) The owner or transporter of oil or a person or entity accepting
16 responsibility for the oil.

17 (2) The owner, operator, or lessee of, or a person ~~who~~ that
18 charters by demise, ~~any~~ a vessel or marine facility, or a person or
19 entity accepting responsibility for the vessel or marine facility.

20 ~~(x)~~

21 (aa) “Small craft” means ~~any~~ a vessel, other than a tank ship
22 or tank barge, that is less than 20 meters in length.

23 ~~(y)~~

24 (ab) “Small craft refueling dock” means a waterside operation
25 that dispenses only nonpersistent oil in bulk and small amounts of
26 persistent lubrication oil in containers primarily to small craft and
27 meets both of the following criteria:

28 (1) Has tank storage capacity not exceeding 20,000 gallons in
29 any single storage tank or tank compartment.

30 (2) Has total usable tank storage capacity not exceeding 75,000
31 gallons.

32 ~~(z)~~

33 (ac) “Small marine fueling facility” means either of the
34 following:

35 (1) A mobile transfer unit.

36 (2) A fixed facility that is not a marine terminal, that dispenses
37 primarily nonpersistent oil, that may dispense small amounts of
38 persistent oil, primarily to small craft, and that meets all of the
39 following criteria:

1 (A) Has tank storage capacity greater than 20,000 gallons but
2 not more than 40,000 gallons in any single storage tank or storage
3 tank compartment.

4 (B) Has total usable tank storage capacity not exceeding 75,000
5 gallons.

6 (C) Had an annual throughput volume of over-the-water transfers
7 of oil that did not exceed 3,000,000 gallons during the most recent
8 preceding 12-month period.

9 ~~(aa)~~

10 ~~(ad)~~ “Spill” or “discharge” means ~~any~~ a release of at least one
11 barrel (42 gallons) of oil into marine waters that is not authorized
12 by ~~any~~ a federal, state, or local government entity.

13 ~~(ab)~~

14 ~~(ae)~~ “State Interagency Oil Spill Committee” means the
15 committee established pursuant to Article 3.5 (commencing with
16 Section 8574.1) of Chapter 7.

17 ~~(ae)~~

18 ~~(af)~~ “California oil spill contingency plan” means the California
19 oil spill contingency plan prepared pursuant to Article 3.5
20 (commencing with Section 8574.1) of Chapter 7.

21 ~~(ad)~~

22 ~~(ag)~~ “Tank barge” means ~~any~~ a vessel that carries oil in
23 commercial quantities as cargo but is not equipped with a means
24 of self-propulsion.

25 ~~(ae)~~

26 ~~(ah)~~ “Tank ship” means ~~any~~ a self-propelled vessel that is
27 constructed or adapted for the carriage of oil in bulk or in
28 commercial quantities as cargo.

29 ~~(af)~~

30 ~~(ai)~~ “Tank vessel” means a tank ship or tank barge.

31 ~~(ag)~~

32 ~~(aj)~~ “Vessel” means ~~any~~ a watercraft or ship of any kind,
33 including ~~every~~ a structure adapted to be navigated from place to
34 place for the transportation of merchandise or persons.

35 ~~(ah)~~

36 ~~(ak)~~ “Vessel carrying oil as secondary cargo” means ~~any~~ a vessel
37 that does not carry oil as a primary cargo, but does carry oil in
38 bulk as cargo or cargo residue.

39 *SEC. 5. Section 8670.25 of the Government Code is amended*
40 *to read:*

1 8670.25. (a) ~~Any~~ A person who, without regard to intent or
2 negligence, causes or permits any oil to be discharged in or on the
3 marine waters *or inland waters* of the state shall immediately
4 contain, cleanup, and remove the oil in the most effective manner
5 ~~which~~ *that* minimizes environmental damage and in accordance
6 with the applicable contingency plans, unless ordered otherwise
7 by the Coast Guard or the administrator.

8 (b) If there is a spill, an owner or operator shall comply with
9 the applicable oil spill contingency plan approved by the
10 administrator.

11 ~~SEC. 5.~~

12 ~~SEC. 6.~~ Section 8670.37.5 of the Government Code is amended
13 to read:

14 8670.37.5. (a) The administrator shall establish a network of
15 rescue and rehabilitation stations for sea birds, sea otters, and other
16 marine mammals. In addition to rehabilitative care, the primary
17 focus of the Oiled Wildlife Care Network shall include proactive
18 oiled wildlife search and collection rescue efforts. These facilities
19 shall be established and maintained in a state of preparedness to
20 provide the best achievable treatment for marine mammals and
21 birds affected by an oil spill in marine waters. The administrator
22 shall consider all feasible management alternatives for operation
23 of the network.

24 (b) The first rescue and rehabilitation station established
25 pursuant to this section shall be located within the sea otter range
26 on the central coast. The administrator shall establish regional
27 oiled wildlife rescue and rehabilitation facilities in the Los Angeles
28 Harbor area, the San Francisco Bay area, the San Diego area, the
29 Monterey Bay area, the Humboldt County area, and the Santa
30 Barbara area, and may establish those facilities in other coastal
31 areas of the state as the administrator determines to be necessary.
32 One or more of the oiled wildlife rescue and rehabilitation stations
33 shall be open to the public for educational purposes and shall be
34 available for marine wildlife health research. Wherever possible
35 in the establishment of these facilities, the administrator shall
36 improve existing authorized marine mammal rehabilitation facilities
37 and may expand or take advantage of existing educational or
38 scientific programs and institutions for oiled wildlife rehabilitation
39 purposes. Expenditures shall be reviewed by the agencies and
40 organizations specified in subdivision (c).

1 (c) The administrator shall consult with the United States Fish
2 and Wildlife Service, the National Marine Fisheries Service, the
3 California Coastal Commission, the Executive Director of the San
4 Francisco Bay Conservation and Development Commission, the
5 Marine Mammal Center, and the International Bird Rescue Center
6 in the design, planning, construction, and operation of the rescue
7 and rehabilitation stations. All proposals for the rescue and
8 rehabilitation stations shall be presented before a public hearing
9 prior to the construction and operation of any rehabilitation station,
10 and, upon completion of the coastal protection element of the
11 California oil spill contingency plan, shall be consistent with the
12 coastal protection element.

13 (d) The administrator may enter into agreements with nonprofit
14 organizations to establish and equip wildlife rescue and
15 rehabilitation stations and to ensure that they are operated in a
16 professional manner in keeping with the pertinent guidance
17 documents issued by the Office of Spill Prevention and Response
18 in the Department of Fish and Game. The implementation of the
19 agreement shall not constitute a California public works project.
20 The agreement shall be deemed a contract for wildlife rehabilitation
21 as authorized by Section 8670.61.5.

22 (e) In the event of a spill, the responsible party may request that
23 the administrator perform the rescue and rehabilitation of oiled
24 wildlife required of the responsible party pursuant to this chapter
25 if the responsible party and the administrator enter into an
26 agreement for the reimbursement of the administrator's costs
27 incurred in taking the requested action. If the administrator
28 performs the rescue and rehabilitation of oiled wildlife, the
29 administrator shall primarily utilize the network of rescue and
30 rehabilitation stations established pursuant to subdivision (a),
31 unless more immediate care is required. Any of those activities
32 conducted pursuant to this section or Section 8670.56.5 or
33 8670.61.5 shall be performed under the direction of the
34 administrator. This subdivision does not remove the responsible
35 party from liability for the costs of, nor the responsibility for, the
36 rescue and rehabilitation of oiled wildlife, as established by this
37 chapter. This subdivision does not prohibit an owner or operator
38 from retaining, in a contingency plan prepared pursuant to this
39 article, wildlife rescue and rehabilitation services different from

1 the rescue and rehabilitation stations established pursuant to this
2 section.

3 (f) (1) The administrator shall appoint a rescue and
4 rehabilitation advisory board to advise the administrator regarding
5 operation of the network of rescue and rehabilitation stations
6 established pursuant to subdivision (a), including the economic
7 operation and maintenance of the network. For the purpose of
8 assisting the administrator in determining what constitutes the best
9 achievable treatment for oiled wildlife, the advisory board shall
10 provide recommendations to the administrator on the care achieved
11 by current standard treatment methods, new or alternative treatment
12 methods, the costs of treatment methods, and any other information
13 that the advisory board believes that the administrator might find
14 useful in making that determination. The administrator shall consult
15 with the advisory board in preparing the administrator's submission
16 to the Legislature pursuant to subparagraph (A) of paragraph (2)
17 of subdivision (l) of Section 8670.48. The administrator shall
18 present the recommendations of the advisory board to the Oil Spill
19 Technical Advisory Committee created pursuant to Article 8
20 (commencing with Section 8670.54), upon the request of the
21 committee.

22 (2) The advisory board shall consist of a balance between
23 representatives of the oil industry, wildlife rehabilitation
24 organizations, and academia. One academic representative shall
25 be from a veterinary school within this state. The United States
26 Fish and Wildlife Service and the National Marine Fisheries
27 Service shall be requested to participate as ex officio members.

28 (3) (A) The Legislature hereby finds and declares that since
29 the administrator may rely on the expertise provided by the
30 volunteer members of the advisory board and may be guided by
31 their recommendations in making decisions that relate to the
32 operation of the network of rescue and rehabilitation stations, those
33 members should be entitled to the same immunity from liability
34 that is provided other public employees.

35 (B) Members of the advisory board, while performing functions
36 within the scope of advisory board duties, shall be entitled to the
37 same rights and immunities granted public employees by Article
38 3 (commencing with Section 820) of Chapter 1 of Part 2 of
39 Division 3.6 of Title 1. Those rights and immunities are deemed

1 to have attached, and shall attach, as of the date of appointment
2 of the member to the advisory board.

3 (g) The administrator shall ensure the state's ability to prevent
4 the contamination of wildlife and to identify, collect, rescue, and
5 treat oiled wildlife through all of the following:

6 (1) Providing for the recruitment and training of an adequate
7 network of wildlife specialists and volunteers from Oiled Wildlife
8 Care Network participant organizations who can be called into
9 immediate action in the event of an oil spill to assist in the field
10 with collection of live oiled wildlife. The training shall include a
11 process for certification of trained volunteers and renewal of
12 certifications. The initial wildlife rescue training shall include field
13 experience in species identification and appropriate field collection
14 techniques for species at risk in different spills. In addition to
15 training in wildlife rescue, the administrator shall provide for
16 appropriate hazardous materials training for new volunteers and
17 contract personnel, with refresher courses offered as necessary to
18 allow for continual readiness of search and collection teams. The
19 Office of Spill Prevention and Response in the Department of Fish
20 and Game is not required to reimburse volunteers for time or travel
21 associated with required wildlife rescue or hazardous materials
22 training.

23 (2) Developing and implementing a plan for the provision of
24 emergency equipment for wildlife rescue in strategic locations to
25 facilitate ready deployment in the case of an oil spill. The
26 administrator shall ensure that the equipment identified as
27 necessary in his or her wildlife response plan is available and
28 deployed in a timely manner to assist in providing the best
29 achievable protection and collection efforts.

30 (3) Developing the capacity of the Oiled Wildlife Care Network
31 to recruit and train an adequate field team for collection of live
32 oiled wildlife, as specified in paragraph (1), by providing staffing
33 for field operations, coordination, and volunteer outreach for the
34 Oiled Wildlife Care Network. The duties of the field operations
35 and volunteer outreach staff shall include recruitment and
36 coordination of additional participation in the Oiled Wildlife Care
37 Network by other existing organizations with experience and
38 expertise in wildlife rescue and handling, including scientific
39 organizations, educational institutions, public agencies, and
40 nonprofit organizations dedicated to wildlife conservation, and

1 recruitment, training, and supervision of volunteers from Oiled
2 Wildlife Care Network participating organizations.

3 (4) Ensuring that qualified persons with experience and expertise
4 in wildlife rescue are assigned to oversee and supervise wildlife
5 recovery search and collection efforts, as specified in the
6 administrator's wildlife response plan. The administrator shall
7 provide for and ensure that all persons involved in field collection
8 of oiled wildlife receive training in search and capture techniques
9 and hazardous materials certification, as appropriate.

10 ~~SEC. 6.~~

11 *SEC. 7.* Section 8670.40 of the Government Code is amended
12 to read:

13 8670.40. (a) The State Board of Equalization shall collect a
14 fee in an amount determined by the administrator to be sufficient
15 to carry out the purposes set forth in subdivision (e), and a
16 reasonable reserve for contingencies. The annual assessment may
17 not exceed five cents (\$0.05) per barrel of crude oil or petroleum
18 products.

19 (b) (1) The oil spill prevention and administration fee shall be
20 imposed upon a person owning crude oil at the time that crude oil
21 is received at a marine terminal from within or outside the state,
22 and upon a person who owns petroleum products at the time that
23 those petroleum products are received at a marine terminal from
24 outside this state. The fee shall be collected by the marine terminal
25 operator from the owner of the crude oil or petroleum products
26 based on each barrel of crude oil or petroleum products so received
27 by means of a vessel operating in, through, or across the marine
28 waters of the state. In addition, an operator of a pipeline shall pay
29 the oil spill prevention and administration fee for each barrel of
30 crude oil originating from a production facility in marine waters
31 and transported in the state by means of a pipeline operating across,
32 under, or through the marine waters of the state. The fees shall be
33 remitted to the board by the terminal or pipeline operator on the
34 25th day of the month based upon the number of barrels of crude
35 oil or petroleum products received at a marine terminal or
36 transported by pipeline during the preceding month. A fee shall
37 not be imposed pursuant to this section with respect to crude oil
38 or petroleum products if the person who would be liable for that
39 fee, or responsible for its collection, establishes that the fee has
40 been collected by a terminal operator registered under this chapter

1 or paid to the board with respect to the crude oil or petroleum
2 product.

3 (2) An owner of crude oil or petroleum products is liable for
4 the fee until it has been paid to the board, except that payment to
5 a marine terminal operator registered under this chapter is sufficient
6 to relieve the owner from further liability for the fee.

7 (3) On or before January 20, the administrator shall annually
8 prepare a plan that projects revenues and expenses over three fiscal
9 years, including the current year. Based on the plan, the
10 administrator shall set the fee so that projected revenues, including
11 any interest, are equivalent to expenses as reflected in the current
12 Budget Act and in the proposed budget submitted by the Governor.
13 In setting the fee, the administrator may allow for a surplus if the
14 administrator finds that revenues will be exhausted during the
15 period covered by the plan or that the surplus is necessary to cover
16 possible contingencies.

17 (c) The moneys collected pursuant to subdivision (a) shall be
18 deposited into the fund.

19 (d) The board shall collect the fee and adopt regulations for
20 implementing the fee collection program.

21 (e) The fee described in this section shall be collected solely
22 for all of the following purposes:

23 (1) To implement oil spill prevention programs through rules,
24 regulations, leasing policies, guidelines, and inspections and to
25 implement research into prevention and control technology.

26 (2) To carry out studies that may lead to improved oil spill
27 prevention and response.

28 (3) To finance environmental and economic studies relating to
29 the effects of oil spills.

30 (4) To reimburse the member agencies of the State Interagency
31 Oil Spill Committee for costs arising from implementation of this
32 chapter, Article 3.5 (commencing with Section 8574.1) of Chapter
33 7 of this code, and Division 7.8 (commencing with Section 8750)
34 of the Public Resources Code.

35 (5) To implement, install, and maintain emergency programs,
36 equipment, and facilities to respond to, contain, and clean up oil
37 spills and to ensure that those operations will be carried out as
38 intended.

39 (6) To respond to an imminent threat of a spill in accordance
40 with the provisions of Section 8670.62 pertaining to threatened

discharges. The cumulative amount of an expenditure for this purpose shall not exceed the amount of one hundred thousand dollars (\$100,000) in a fiscal year unless the administrator receives the approval of the Director of Finance and notification is given to the Joint Legislative Budget Committee. Commencing with the 1993–94 fiscal year, and each fiscal year thereafter, it is the intent of the Legislature that the annual Budget Act contain an appropriation of one hundred thousand dollars (\$100,000) from the fund for the purpose of allowing the administrator to respond to threatened oil spills.

(7) To reimburse the board for costs incurred to implement this chapter and to carry out Part 24 (commencing with Section 46001) of Division 2 of the Revenue and Taxation Code.

(8) To reimburse the costs incurred by the State Lands Commission in implementing the Oil Transfer and Transportation Emission and Risk Reduction Act of 2002 (Division 7.9 (commencing with Section 8780) of the Public Resources Code).

(9) To cover costs incurred by the Oiled Wildlife Care Network established by Section 8670.37.5 for training and field collection, and search and rescue activities, pursuant to subdivision (g) of Section 8670.37.5.

(f) The moneys deposited in the fund shall not be used for responding to an oil spill.

SEC. 7.5. Section 8670.40 of the Government Code is amended to read:

8670.40. (a) The State Board of Equalization shall collect a fee in an amount determined by the administrator to be sufficient to carry out the purposes set forth in subdivision (e), and a reasonable reserve for contingencies. The annual assessment may not exceed ~~five~~ *eight* cents ~~(\$0.05)~~ *(\$0.08)* per barrel of crude oil or petroleum products.

(b) (1) The oil spill prevention and administration fee shall be imposed upon ~~every~~ *a* person owning crude oil at the time that the crude oil is received at a marine terminal from within or outside the state, and upon ~~every~~ *a* person ~~owning~~ *who owns* petroleum products at the time that those petroleum products are received at a marine terminal from outside this state. The fee shall be collected by the marine terminal operator from the owner of the crude oil or petroleum products based on each barrel of crude oil or petroleum products so received by means of a vessel operating in,

1 through, or across the marine waters of the state. In addition, ~~every~~
2 ~~an~~ operator of a pipeline shall pay the oil spill prevention and
3 administration fee for each barrel of crude oil originating from a
4 production facility in marine waters and transported in the state
5 by means of a pipeline operating across, under, or through the
6 marine waters of the state. The fees shall be remitted to the board
7 by the terminal or pipeline operator on the 25th day of the month
8 based upon the number of barrels of crude oil or petroleum
9 products received at a marine terminal or transported by pipeline
10 during the preceding month. ~~No~~ A fee shall *not* be imposed
11 pursuant to this section with respect to ~~any~~ crude oil or petroleum
12 products if the person who would be liable for that fee, or
13 responsible for its collection, establishes that the fee has been
14 collected by a terminal operator registered under this chapter or
15 paid to the board with respect to the crude oil or petroleum product.

16 (2) ~~Every~~ *An* owner of crude oil or petroleum products is liable
17 for the fee until it has been paid to the board, except that payment
18 to a marine terminal operator registered under this chapter is
19 sufficient to relieve the owner from further liability for the fee.

20 (3) On or before January 20, the administrator shall annually
21 prepare a plan that projects revenues and expenses over three fiscal
22 years, including the current year. Based on the plan, the
23 administrator shall set the fee so that projected revenues, including
24 ~~any~~ interest, are equivalent to expenses as reflected in the current
25 Budget Act and in the proposed budget submitted by the Governor.
26 In setting the fee, the administrator may allow for a surplus if the
27 administrator finds that revenues will be exhausted during the
28 period covered by the plan or that the surplus is necessary to cover
29 possible contingencies.

30 (c) The moneys collected pursuant to subdivision (a) shall be
31 deposited into the fund.

32 (d) The board shall collect the fee and adopt regulations for
33 implementing the fee collection program.

34 (e) The fee described in this section shall be collected solely
35 for all of the following purposes:

36 (1) To implement oil spill prevention programs through rules,
37 regulations, leasing policies, guidelines, and inspections and to
38 implement research into prevention and control technology.

39 (2) To carry out studies that may lead to improved oil spill
40 prevention and response.

1 (3) To finance environmental and economic studies relating to
2 the effects of oil spills.

3 (4) To reimburse the member agencies of the State Interagency
4 Oil Spill Committee for costs arising from implementation of this
5 chapter, Article 3.5 (commencing with Section 8574.1) of Chapter
6 7 *of this code*, and Division 7.8 (commencing with Section 8750)
7 of the Public Resources Code.

8 (5) To implement, install, and maintain emergency programs,
9 equipment, and facilities to respond to, contain, and clean up oil
10 spills and to ensure that those operations will be carried out as
11 intended.

12 (6) To respond to an imminent threat of a spill in accordance
13 with the provisions of Section 8670.62 pertaining to threatened
14 discharges. The cumulative amount of ~~any~~ *an* expenditure for this
15 purpose shall not exceed the amount of one hundred thousand
16 dollars (\$100,000) in ~~any~~ *a* fiscal year unless the administrator
17 receives the approval of the Director of Finance and notification
18 is given to the Joint Legislative Budget Committee. Commencing
19 with the 1993–94 fiscal year, and each fiscal year thereafter, it is
20 the intent of the Legislature that the annual Budget Act contain an
21 appropriation of one hundred thousand dollars (\$100,000) from
22 the fund for the purpose of allowing the administrator to respond
23 to threatened oil spills.

24 (7) To reimburse the board for costs incurred to implement this
25 chapter and to carry out Part 24 (commencing with Section 46001)
26 of Division 2 of the Revenue and Taxation Code.

27 (8) To reimburse the costs incurred by the State Lands
28 Commission in implementing the Oil Transfer and Transportation
29 Emission and Risk Reduction Act of 2002 (Division 7.9
30 (commencing with Section 8780) of the Public Resources Code).

31 (9) *To cover costs incurred by the Oil Wildlife Care Network*
32 *established by Section 8670.37.5 for training and field collection,*
33 *and search and rescue activities, pursuant to subdivision (g) of*
34 *Section 8670.37.5.*

35 (f) The moneys deposited in the fund shall not be used for
36 responding to an oil spill.

37 ~~SEC. 7.~~

38 SEC. 8. Section 8670.48 of the Government Code is amended
39 to read:

1 8670.48. (a) (1) A uniform oil spill response fee in an amount
2 not exceeding twenty-five cents (\$0.25) for each barrel of
3 petroleum products, as set by the administrator pursuant to
4 subdivision (f), shall be imposed upon a person who owns
5 petroleum products at the time the petroleum products are received
6 at a marine terminal within this state by means of a vessel from a
7 point of origin outside this state. The fee shall be remitted to the
8 State Board of Equalization by the terminal operator on the 25th
9 day of each month based upon the number of barrels of petroleum
10 products received during the preceding month.

11 (2) An owner of petroleum products is liable for the fee until it
12 has been paid to the state, except that payment to a marine terminal
13 operator registered under this chapter is sufficient to relieve the
14 owner from further liability for the fee.

15 (b) An operator of a pipeline shall also pay a uniform oil spill
16 response fee in an amount not exceeding twenty-five cents (\$0.25)
17 for each barrel of petroleum products, as set by the administrator
18 pursuant to subdivision (f), transported into the state by means of
19 a pipeline operating across, under, or through the marine waters
20 of the state. The fee shall be paid on the 25th day of each month
21 based upon the number of barrels of petroleum products so
22 transported into the state during the preceding month.

23 (c) (1) An operator of a refinery shall pay a uniform oil spill
24 response fee in an amount not exceeding twenty-five cents (\$0.25)
25 for each barrel of crude oil, as set by the administrator pursuant
26 to subdivision (f), received at a refinery within the state. The fee
27 shall be paid on the 25th day of each month based upon the number
28 of barrels of crude oil so received during the preceding month.

29 (2) The fee shall not be imposed by a refiner, or a person or
30 entity acting as an agent for a refiner, on crude oil produced by an
31 independent crude oil producer as defined in paragraph (3). The
32 board shall not identify a company as exempt from the fee
33 requirements of this section if that company was reorganized, sold,
34 or otherwise modified with the intent of circumventing the
35 requirements of this section.

36 (3) For purposes of this chapter, “independent crude oil
37 producer” means a person or entity producing crude oil within this
38 state who does not refine crude oil into a product, and who does
39 not possess or own a retail gasoline marketing facility.

1 (d) A marine terminal operator shall pay a uniform oil spill
2 response fee in an amount not exceeding twenty-five cents (\$0.25),
3 in accordance with subdivision (g), for each barrel of crude oil, as
4 set by the administrator pursuant to subdivision (f), that is
5 transported from within this state by means of a marine vessel to
6 a destination outside this state.

7 (e) An operator of a pipeline shall pay a uniform oil spill
8 response fee in an amount not exceeding twenty-five cents (\$0.25),
9 in accordance with subdivision (g), for each barrel of crude oil, as
10 set by the administrator pursuant to subdivision (f), transported
11 out of the state by pipeline.

12 (f) (1) The fees required pursuant to this section shall be
13 collected during any period for which the administrator determines
14 that collection is necessary for any of the following reasons:

15 (A) The amount in the fund is less than or equal to 95 percent
16 of the designated amount specified in subdivision (a) of Section
17 46012 of the Revenue and Taxation Code.

18 (B) Additional money is required to pay for the purposes
19 specified in subdivision (k).

20 (C) The revenue is necessary to repay a draw on a financial
21 security obtained by the Treasurer pursuant to subdivision (o) or
22 borrowing by the Treasurer pursuant to Article 7.5 (commencing
23 with Section 8670.53.1) including any principal, interest, premium,
24 fees, charges, or costs of any kind incurred in connection with
25 those borrowings or financial security.

26 (2) The administrator, in consultation with the State Board of
27 Equalization, and with the approval of the Treasurer, may direct
28 the State Board of Equalization to cease collecting the fee when
29 the administrator determines that further collection of the fee is
30 not necessary for the purposes specified in paragraph (1).

31 (3) The administrator, in consultation with the State Board of
32 Equalization, shall set the amount of the oil spill response fees.
33 The oil spill response fees shall be imposed on all feepayers in the
34 same amount. The administrator shall not set the amount of the
35 fee at less than twenty-five cents (\$0.25) for each barrel of
36 petroleum products or crude oil, unless the administrator finds that
37 the assessment of a lesser fee will cause the fund to reach the
38 designated amount specified in subdivision (a) of Section 46012
39 of the Revenue and Taxation Code within four months. The fee
40 shall not be less than twenty-five cents (\$0.25) for each barrel of

1 petroleum products or crude oil if the administrator has drawn
2 upon the financial security obtained by the Treasurer pursuant to
3 subdivision (o) or if the Treasurer has borrowed money pursuant
4 to Article 7.5 (commencing with Section 8670.53.1) and principal,
5 interest, premium, fees, charges, or costs of any kind incurred in
6 connection with those borrowings remain outstanding or unpaid,
7 unless the Treasurer has certified to the administrator that the
8 money in the fund is not necessary for the purposes specified in
9 paragraph (1).

10 (g) The fees imposed by subdivisions (d) and (e) shall be
11 imposed in any calendar year beginning the month following the
12 month when the total cumulative year-to-date barrels of crude oil
13 transported outside the state by all fee payers by means of vessel
14 or pipeline exceed 6 percent by volume of the total barrels of crude
15 oil and petroleum products subject to oil spill response fees under
16 subdivisions (a), (b), and (c) for the prior calendar year.

17 (h) For purposes of this chapter, “designated amount” means
18 the amounts specified in Section 46012 of the Revenue and
19 Taxation Code.

20 (i) The administrator, in consultation with the State Board of
21 Equalization and with the approval of the Treasurer, shall authorize
22 refunds of any money collected that is not necessary for the
23 purposes specified in paragraph (1) of subdivision (f). The State
24 Board of Equalization, as directed by the administrator, and in
25 accordance with Section 46653 of the Revenue and Taxation Code,
26 shall refund the excess amount of fees collected to each fee payer
27 who paid the fee to the state, in proportion to the amount that each
28 fee payer paid into the fund during the preceding 12 monthly
29 reporting periods in which there was a fee due, including the month
30 in which the fund exceeded the specified amount. If the total
31 amount of money in the fund exceeds the amount specified in this
32 subdivision by 10 percent or less, refunds need not be ordered by
33 the administrator. This section does not require the refund of excess
34 fees as provided in this subdivision more frequently than once
35 each year.

36 (j) The State Board of Equalization shall collect the fee and
37 adopt regulations implementing the fee collection program. All
38 fees collected pursuant to this section shall be deposited in the Oil
39 Spill Response Trust Fund.

1 (k) The fee described in this section shall be collected solely
2 for any of the following purposes:

3 (1) To provide funds to cover promptly the costs of response,
4 containment, and cleanup of oil spills into marine waters, including
5 damage assessment costs, and wildlife rehabilitation as provided
6 in Section 8670.61.5.

7 (2) To cover response and cleanup costs and other damages
8 suffered by the state or other persons or entities from oil spills into
9 marine waters, which cannot otherwise be compensated by
10 responsible parties or the federal government.

11 (3) To pay claims for damages pursuant to Section 8670.51.

12 (4) To pay claims for damages, except for damages described
13 in paragraph (7) of subdivision (h) of Section 8670.56.5, pursuant
14 to Section 8670.51.1.

15 (5) To pay for the cost of obtaining financial security in the
16 amount specified in subdivision (b) of Section 46012 of the
17 Revenue and Taxation Code, as authorized by subdivision (o).

18 (6) To pay indemnity and related costs and expenses as
19 authorized by Section 8670.56.6.

20 (7) To pay principal, interest, premium, if any, and fees, charges,
21 and costs of any kind incurred in connection with moneys drawn
22 by the administrator on the financial security obtained by the
23 Treasurer pursuant to subdivision (o) or borrowed by the Treasurer
24 pursuant to Article 7.5 (commencing with Section 8670.53.1).

25 (8) To pay for the costs of rescue, medical treatment,
26 rehabilitation, and disposition of oiled wildlife, as incurred by the
27 network of oiled wildlife rescue and rehabilitation stations created
28 pursuant to Section 8670.37.5.

29 (l) (1) The interest that the state earns on the funds deposited
30 into the Oil Spill Response Trust Fund shall be deposited in the
31 fund and shall be used to maintain the fund at the designated
32 amount specified in subdivision (a) of Section 46012 of the
33 Revenue and Taxation Code. Interest earned until July 1, 1998,
34 on funds deposited pursuant to subdivision (a) of Section 46012
35 of the Revenue and Taxation Code, as determined jointly by the
36 Controller and the Director of Finance, shall be available upon
37 appropriation by the Legislature in the Budget Act to establish,
38 equip, operate, and maintain the network of rescue and
39 rehabilitation stations for oiled wildlife as described in Section
40 8670.37.5 and to support technology development and research

1 related to oiled wildlife care. Interest earned on the financial
2 security portion of the fund, required to be accessible pursuant to
3 subdivision (b) of Section 46012 of the Revenue and Taxation
4 Code shall not be available for that purpose. If the amount in the
5 fund exceeds that designated amount, the interest not needed to
6 equip, operate, and maintain the network of rescue and
7 rehabilitation stations, or for appropriate technology development
8 and research regarding oiled wildlife care, shall be deposited into
9 the Oil Spill Prevention and Administration Fund, and shall be
10 available for the purposes authorized by Article 6 (commencing
11 with Section 8670.38).

12 (2) (A) For each fiscal year, consistent with this article, the
13 administrator shall submit, as a proposed appropriation in the
14 Governor's Budget, an amount up to two million dollars
15 (\$2,000,000) of the interest earned on the funds deposited into the
16 Oil Spill Response Trust Fund for the purpose of equipping,
17 operating, and maintaining the network of oiled wildlife rescue
18 and rehabilitation stations and proactive oiled wildlife search and
19 collection rescue efforts established pursuant to Section 8670.37.5
20 and for support of technology development and research related
21 to oiled wildlife care. The remaining interest, if any, shall be
22 deposited into the Oil Spill Prevention and Administration Fund
23 pursuant to paragraph (1).

24 (B) The administrator shall report to the Legislature not later
25 than June 30, 2002, on the progress and effectiveness of the
26 network of oiled wildlife rescue and rehabilitation stations
27 established pursuant to Section 8670.37.5, and the adequacy of
28 the Oil Spill Response Trust Fund to meet the purposes for which
29 it was established.

30 (C) At the administrator's request, the funds made available
31 pursuant to this paragraph may be directly appropriated to a suitable
32 program for wildlife health and rehabilitation within a school of
33 veterinary medicine within this state, provided that an agreement
34 exists, consistent with this chapter, between the administrator and
35 an appropriate representative of the program for carrying out that
36 purpose. The administrator shall attempt to have an agreement in
37 place at all times. The agreement shall ensure that the training of,
38 and the care provided by, the program staff are at levels that are
39 consistent with those standards generally accepted within the
40 veterinary profession.

(D) The funds made available pursuant to this paragraph shall not be considered an offset to any other state funds appropriated to the program, the program's associated school of veterinary medicine, or the program's associated college or university, and the funds shall not be used for any other purpose. If an offset does occur or the funds are used for an unintended purpose, expenditure of any appropriation of funds pursuant to this paragraph may be terminated by the administrator and the administrator may request a reappropriation to accomplish the intended purpose. The administrator shall annually review and approve the proposed uses of any funds made available pursuant to this paragraph.

(m) The Legislature finds and declares that effective response to oil spills requires that the state have available sufficient funds in a response fund. The Legislature further finds and declares that maintenance of that fund is of utmost importance to the state and that the money in the fund shall be used solely for the purposes specified in subdivision (k).

(n) It is the intent of the Legislature, in enacting this section, that the fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer.

(o) The Treasurer shall obtain financial security, in the designated amount specified in subdivision (b) of Section 46012 of the Revenue and Taxation Code, in a form which, in the event of an oil spill, may be drawn upon immediately by the administrator upon making the determinations required by paragraph (2) of subdivision (a) of Section 8670.49. The financial security may be obtained in any of the forms described in subdivision (b) of Section 8670.53.3, as determined by the Treasurer.

(p) This section does not limit the authority of the administrator to raise oil spill response fees pursuant to Section 8670.48.5.

SEC. 8.5. Section 8670.48 of the Government Code is amended to read:

8670.48. (a) (1) A uniform oil spill response fee in an amount not exceeding twenty-five cents (\$0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), shall be imposed upon ~~every~~ a person ~~owning~~ who owns petroleum products at the time the petroleum products are received at a marine terminal within this state by means of a vessel from a point of origin outside this state. The fee shall be remitted

1 to the State Board of Equalization by the terminal operator on the
2 25th day of each month based upon the number of barrels of
3 petroleum products received during the preceding month.

4 (2) ~~Every~~*An* owner of petroleum products is liable for the fee
5 until it has been paid to the state, except that payment to a marine
6 terminal operator registered under this chapter is sufficient to
7 relieve the owner from further liability for the fee.

8 (b) ~~Every~~*An* operator of a pipeline shall also pay a uniform oil
9 spill response fee in an amount not exceeding twenty-five cents
10 (\$0.25) for each barrel of petroleum products, as set by the
11 administrator pursuant to subdivision (f), transported into the state
12 by means of a pipeline operating across, under, or through the
13 marine waters of the state. The fee shall be paid on the 25th day
14 of each month based upon the number of barrels of petroleum
15 products so transported into the state during the preceding month.

16 (c) (1) ~~Every~~*An* operator of a refinery shall pay a uniform oil
17 spill response fee in an amount not exceeding twenty-five cents
18 (\$0.25) for each barrel of crude oil, as set by the administrator
19 pursuant to subdivision (f), received at a refinery within the state.
20 The fee shall be paid on the 25th day of each month based upon
21 the number of barrels of crude oil so received during the preceding
22 month.

23 (2) The fee shall not be imposed by a refiner, or a person or
24 entity acting as an agent for a refiner, on crude oil produced by an
25 independent crude oil producer as defined in paragraph (3). The
26 board shall not identify a company as exempt from the fee
27 requirements of this section if that company was reorganized, sold,
28 or otherwise modified with the intent of circumventing the
29 requirements of this section.

30 (3) For purposes of this chapter, “independent crude oil
31 producer” means ~~any a~~ *a* person or entity producing crude oil within
32 this state who ~~performs no refining of~~ *does not refine* crude oil
33 into *a* product, and who ~~possesses~~ *does not possess or owns no*
34 ~~own a retail gasoline marketing facilities facility.~~

35 (d) ~~Every~~*A* marine terminal operator shall pay a uniform oil
36 spill response fee in an amount not exceeding twenty-five cents
37 (\$0.25), in accordance with subdivision (g), for each barrel of
38 crude oil, as set by the administrator pursuant to subdivision (f),
39 that is transported from within this state by means of marine vessel
40 to a destination outside this state.

1 (e) ~~Every~~*An* operator of a pipeline shall pay a uniform oil spill
2 response fee in an amount not exceeding twenty-five cents (\$0.25),
3 in accordance with subdivision (g), for each barrel of crude oil, as
4 set by the administrator pursuant to subdivision (f), transported
5 out of the state by pipeline.

6 (f) (1) The fees required pursuant to this section shall be
7 collected during~~any~~ *a* period for which the administrator
8 determines that collection is necessary for any of the following
9 reasons:

10 (A) The amount in the fund is less than or equal to 95 percent
11 of the designated amount specified in subdivision (a) of Section
12 46012 of the Revenue and Taxation Code.

13 (B) Additional money is required to pay for the purposes
14 specified in subdivision (k).

15 (C) The revenue is necessary to repay~~any~~ *a* draw on a financial
16 security obtained by the Treasurer pursuant to subdivision (o) or
17 ~~any~~ borrowing by the Treasurer pursuant to Article 7.5
18 (commencing with Section 8670.53.1) including any principal,
19 interest, premium, fees, charges, or costs of any kind incurred in
20 connection with those borrowings or financial security.

21 (2) The administrator, in consultation with the State Board of
22 Equalization, and with the approval of the Treasurer, may direct
23 the State Board of Equalization to cease collecting the fee when
24 the administrator determines that further collection of the fee is
25 not necessary for the purposes specified in paragraph (1).

26 (3) The administrator, in consultation with the State Board of
27 Equalization, shall set the amount of the oil spill response fees.
28 The oil spill response fees shall be imposed on all feepayers in the
29 same amount. The administrator shall not set the amount of the
30 fee at less than twenty-five cents (\$0.25) for each barrel of
31 petroleum products or crude oil, unless the administrator finds that
32 the assessment of a lesser fee will cause the fund to reach the
33 designated amount specified in subdivision (a) of Section 46012
34 of the Revenue and Taxation Code within four months. The fee
35 shall not be less than twenty-five cents (\$0.25) for each barrel of
36 petroleum products or crude oil if the administrator has drawn
37 upon the financial security obtained by the Treasurer pursuant to
38 subdivision (o) or if the Treasurer has borrowed money pursuant
39 to Article 7.5 (commencing with Section 8670.53.1) and principal,
40 interest, premium, fees, charges, or costs of any kind incurred in

1 connection with those borrowings remain outstanding or unpaid,
2 unless the Treasurer has certified to the administrator that the
3 money in the fund is not necessary for the purposes specified in
4 paragraph (1).

5 (g) The fees imposed by subdivisions (d) and (e) shall be
6 imposed in any calendar year beginning the month following the
7 month when the total cumulative year-to-date barrels of crude oil
8 transported outside the state by all feepayers by means of vessel
9 or pipeline ~~exceeds~~ *exceed* 6 percent by volume of the total barrels
10 of crude oil and petroleum products subject to oil spill response
11 fees under subdivisions (a), (b), and (c) for the prior calendar year.

12 (h) For purposes of this chapter, “designated amount” means
13 the amounts specified in Section 46012 of the Revenue and
14 Taxation Code.

15 (i) The administrator, in consultation with the State Board of
16 Equalization and with the approval of the Treasurer, shall authorize
17 refunds of any money collected that is not necessary for the
18 purposes specified in paragraph (1) of subdivision (f). The State
19 Board of Equalization, as directed by the administrator, and in
20 accordance with Section 46653 of the Revenue and Taxation Code,
21 shall refund the excess amount of fees collected to each feepayer
22 who paid the fee to the state, in proportion to the amount that each
23 feepayer paid into the fund during the preceding 12 monthly
24 reporting periods in which there was a fee due, including the month
25 in which the fund exceeded the specified amount. If the total
26 amount of money in the fund exceeds the amount specified in this
27 subdivision by 10 percent or less, refunds need not be ordered by
28 the administrator. ~~Nothing in this~~ *This section shall does not* require
29 the refund of excess fees as provided in this subdivision more
30 frequently than once each year.

31 (j) The State Board of Equalization shall collect the fee and
32 adopt regulations implementing the fee collection program. All
33 fees collected pursuant to this section shall be deposited in the Oil
34 Spill Response Trust Fund.

35 (k) The fee described in this section shall be collected solely
36 for any of the following purposes:

37 (1) To provide funds to cover promptly the costs of response,
38 containment, and cleanup of oil spills into marine waters, including
39 damage assessment costs, and wildlife rehabilitation as provided
40 in Section 8670.61.5.

(2) To cover response and cleanup costs and other damages suffered by the state or other persons or entities from oil spills into marine waters, which cannot otherwise be compensated by responsible parties or the federal government, *including, but not limited to, an owner or operator, or rated OSRO, that is contracted, directed, or called upon by the administrator to provide response resources pursuant to Section 8670.11.*

(3) To pay claims for damages pursuant to Section 8670.51.

(4) To pay claims for damages, except for damages described in paragraph (7) of subdivision (h) of Section 8670.56.5, pursuant to Section 8670.51.1.

(5) To pay for the cost of obtaining financial security in the amount specified in subdivision (b) of Section 46012 of the Revenue and Taxation Code, as authorized by subdivision (o).

(6) To pay indemnity and related costs and expenses as authorized by Section 8670.56.6.

(7) To pay principal, interest, premium, if any, and fees, charges, and costs of any kind incurred in connection with moneys drawn by the administrator on the financial security obtained by the Treasurer pursuant to subdivision (o) or borrowed by the Treasurer pursuant to Article 7.5 (commencing with Section 8670.53.1).

(8) To pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife, as incurred by the network of oiled wildlife rescue and rehabilitation stations created pursuant to Section 8670.37.5.

(9) *To pay for the costs to administer and award California Oil Spill Prevention and Cleanup Technology Grants pursuant to Section 8670.74.*

(l) (1) The interest that the state earns on the funds deposited into the Oil Spill Response Trust Fund shall be deposited in the fund and shall be used to maintain the fund at the designated amount specified in subdivision (a) of Section 46012 of the Revenue and Taxation Code. Interest earned until July 1, 1998, on funds deposited pursuant to subdivision (a) of Section 46012 of the Revenue and Taxation Code, as determined jointly by the Controller and the Director of Finance, shall be available upon appropriation by the Legislature in the Budget Act to establish, equip, operate, and maintain the network of rescue and rehabilitation stations for oiled wildlife as described in Section 8670.37.5 and to support technology development and research

1 related to oiled wildlife care. Interest earned on the financial
2 security portion of the fund, required to be accessible pursuant to
3 subdivision (b) of Section 46012 of the Revenue and Taxation
4 Code shall not be available for that purpose. If the amount in the
5 fund exceeds that designated amount, the interest not needed to
6 equip, operate, and maintain the network of rescue and
7 rehabilitation stations, or for appropriate technology development
8 and research regarding oiled wildlife care, shall be deposited into
9 the Oil Spill Prevention and Administration Fund, and shall be
10 available for the purposes authorized by Article 6 (commencing
11 with Section 8670.38).

12 (2) (A) For each fiscal year, consistent with this article, the
13 administrator shall submit, as a proposed appropriation in the
14 Governor's Budget, an amount up to ~~one~~ *two* million ~~five hundred~~
15 ~~thousand~~ dollars ~~(\$1,500,000)~~, *(\$2,000,000)* of the interest earned
16 on the funds deposited into the Oil Spill Response Trust Fund; for
17 the purpose of equipping, operating, and maintaining the network
18 of oiled wildlife rescue and rehabilitation stations *and proactive*
19 *oiled wildlife search and collection rescue efforts* established
20 pursuant to Section 8670.37.5 and for support of technology
21 development and research related to oiled wildlife care. The
22 remaining interest, *if any*, shall be deposited into the Oil Spill
23 Prevention and Administration Fund pursuant to paragraph (1).

24 (B) The administrator shall report to the Legislature not later
25 than June 30, 2002, on the progress and effectiveness of the
26 network of oiled wildlife rescue and rehabilitation stations
27 established pursuant to Section 8670.37.5, and the adequacy of
28 the Oil Spill Response Trust Fund to meet the purposes for which
29 it was established.

30 (C) At the administrator's request, the funds made available
31 pursuant to this paragraph may be directly appropriated to a suitable
32 program for wildlife health and rehabilitation within a school of
33 veterinary medicine within this state, provided that an agreement
34 exists, consistent with this chapter, between the administrator and
35 an appropriate representative of the program for carrying out that
36 purpose. The administrator shall attempt to have an agreement in
37 place at all times. The agreement shall ensure that the training of,
38 and the care provided by, the program staff are at levels that are
39 consistent with those standards generally accepted within the
40 veterinary profession.

(D) The funds made available pursuant to this paragraph shall not be considered an offset to any other state funds appropriated to the program, the program's associated school of veterinary medicine, or the program's associated college or university, and the funds shall not be used for any other purpose. If an offset does occur or the funds are used for an unintended purpose, expenditure of any appropriation of funds pursuant to this paragraph may be terminated by the administrator and the administrator may request a reappropriation to accomplish the intended purpose. The administrator shall annually review and approve the proposed uses of any funds made available pursuant to this paragraph.

(m) The Legislature finds and declares that effective response to oil spills requires that the state have available sufficient funds in a response fund. The Legislature further finds and declares that maintenance of that fund is of utmost importance to the state and that the money in the fund shall be used solely for the purposes specified in subdivision (k).

(n) It is the intent of the Legislature, in enacting this section, that the fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer.

(o) The Treasurer shall obtain financial security, in the designated amount specified in subdivision (b) of Section 46012 of the Revenue and Taxation Code, in a form which, in the event of an oil spill, may be drawn upon immediately by the administrator upon making the determinations required by paragraph (2) of subdivision (a) of Section 8670.49. The financial security may be obtained in any of the forms described in subdivision (b) of Section 8670.53.3, as determined by the Treasurer.

(p) ~~Nothing in this~~ *This section limits does not limit* the authority of the administrator to raise oil spill response fees pursuant to Section 8670.48.5.

~~SEC. 8.~~

SEC. 9. Section 8670.56.5 of the Government Code is amended to read:

8670.56.5. (a) A responsible party, as defined in Section 8670.3, shall be absolutely liable without regard to fault for any damages incurred by any injured party that arise out of, or are caused by a spill or inland spill.

1 (b) A responsible person is not liable to an injured party under
2 this section for any of the following:

3 (1) Damages, other than costs of removal incurred by the state
4 or a local government, caused solely by any act of war, hostilities,
5 civil war, or insurrection or by an unanticipated grave natural
6 disaster or other act of God of an exceptional, inevitable, and
7 irresistible character, which could not have been prevented or
8 avoided by the exercise of due care or foresight.

9 (2) Damages caused solely by the negligence or intentional
10 malfeasance of that injured party.

11 (3) Damages caused solely by the criminal act of a third party
12 other than the defendant or an agent or employee of the defendant.

13 (4) Natural seepage not caused by a responsible party.

14 (5) Discharge or leaking of oil or natural gas from a private
15 pleasure boat or vessel.

16 (6) Damages that arise out of, or are caused by, a discharge that
17 is authorized by a state or federal permit.

18 (c) The defenses provided in subdivision (b) shall not be
19 available to a responsible person who fails to comply with Sections
20 8670.25, 8670.25.5, 8670.27, and 8670.62.

21 (d) Upon motion and sufficient showing by a party deemed to
22 be responsible under this section, the court shall join to the action
23 any other party who may be responsible under this section.

24 (e) In determining whether a party is a responsible party under
25 this section, the court shall consider the results of chemical or other
26 scientific tests conducted to determine whether oil or other
27 substances produced, discharged, or controlled by the defendant
28 matches the oil or other substance that caused the damage to the
29 injured party. The defendant shall have the burden of producing
30 the results of tests of samples of the substance that caused the
31 injury and of substances for which the defendant is responsible,
32 unless it is not possible to conduct the tests because of
33 unavailability of samples to test or because the substance is not
34 one for which reliable tests have been developed. At the request
35 of a party, any other party shall provide samples of oil or other
36 substances within its possession or control for testing.

37 (f) The court may award reasonable costs of the suit, attorneys'
38 fees, and the costs of necessary expert witnesses to a prevailing
39 plaintiff. The court may award reasonable costs of the suit and
40 attorneys' fees to a prevailing defendant if the court finds that the

1 plaintiff commenced or prosecuted the suit under this section in
2 bad faith or solely for purposes of harassing the defendant.

3 (g) This section does not prohibit a person from bringing an
4 action for damages caused by oil or by exploration, under any
5 other provision or principle of law, including, but not limited to,
6 common law. However, damages shall not be awarded pursuant
7 to this section to an injured party for loss or injury for which the
8 party is or has been awarded damages under any other provision
9 or principle of law. Subdivision (b) does not create a defense not
10 otherwise available regarding an action brought under any other
11 provision or principle of law, including, but not limited to, common
12 law.

13 (h) Damages for which responsible parties are liable under this
14 section include the following:

15 (1) All costs of response, containment, cleanup, removal, and
16 treatment, including, but not limited to, monitoring and
17 administration costs incurred pursuant to the California oil spill
18 contingency plan or actions taken pursuant to directions by the
19 administrator.

20 (2) Injury to, or economic losses resulting from destruction of
21 or injury to, real or personal property, which shall be recoverable
22 by any claimant who has an ownership or leasehold interest in
23 property.

24 (3) Injury to, destruction of or loss of, natural resources,
25 including, but not limited to, the reasonable costs of rehabilitating
26 wildlife, habitat, and other resources and the reasonable costs of
27 assessing that injury, destruction, or loss, in an action brought by
28 the state, a county, city, or district. Damages for the loss of natural
29 resources may be determined by any reasonable method, including,
30 but not limited to, determination according to the costs of restoring
31 the lost resource.

32 (4) Loss of subsistence use of natural resources, which shall be
33 recoverable by a claimant who so uses natural resources that have
34 been injured, destroyed, or lost.

35 (5) Loss of taxes, royalties, rents, or net profit shares caused by
36 the injury, destruction, loss, or impairment of use of real property,
37 personal property, or natural resources.

38 (6) Loss of profits or impairment of earning capacity due to the
39 injury, destruction, or loss of real property, personal property, or
40 natural resources, which shall be recoverable by any claimant who

1 derives at least 25 percent of his or her earnings from the activities
2 that utilize the property or natural resources, or, if those activities
3 are seasonal in nature, 25 percent of his or her earnings during the
4 applicable season.

5 (7) Loss of use and enjoyment of natural resources, public
6 beaches, and other public resources or facilities, in an action
7 brought by the state, a county, city, or district.

8 (i) Except as provided in Section 1431.2 of the Civil Code,
9 liability under this section shall be joint and several. However, this
10 section does not bar a cause of action that a responsible party has
11 or would have, by reason of subrogation or otherwise, against a
12 person.

13 (j) This section does not apply to claims for damages for
14 personal injury or wrongful death, and does not limit the right of
15 a person to bring an action for personal injury or wrongful death
16 under any provision or principle of law.

17 (k) Payments made by a responsible party to cover liabilities
18 arising from a discharge of oil, whether under this division or any
19 other provision of federal, state, or local law, shall not be charged
20 against royalties, rents, or net profits owed to the United States,
21 the state, or any other public entity.

22 (l) An action that a private or public individual or entity may
23 have against a responsible party under this section may be brought
24 directly by the individual or entity or by the state on behalf of the
25 individual or entity. However, the state shall not pursue an action
26 on behalf of a private individual or entity that requests the state
27 not to pursue that action.

28 (m) For the purposes of this section, “vessels” means vessels
29 as defined in Section 21 of the Harbors and Navigation Code.

30 ~~SEC. 9. Section 8670.56.6 of the Government Code is amended~~
31 ~~to read:~~

32 ~~8670.56.6. (a) (1) Except as provided in subdivisions (b) and~~
33 ~~(d), and subject to subdivision (c), a person, including, but not~~
34 ~~limited to, an oil spill cooperative or its agents, subcontractors, or~~
35 ~~employees, shall not be liable under this chapter or the laws of the~~
36 ~~state to a person for costs, damages, or other claims or expenses~~
37 ~~as a result of actions taken or omitted in good faith in the course~~
38 ~~of rendering care, assistance, or advice in accordance with the~~
39 ~~National Contingency Plan or the California oil spill contingency~~
40 ~~plan, or at the direction of the administrator, onsite coordinator,~~

1 ~~United States Environmental Protection Agency, or the Coast~~
2 ~~Guard in response to a spill or inland spill or threatened spill or~~
3 ~~inland spill.~~

4 ~~(2) The qualified immunity under this section shall not apply~~
5 ~~to a spill or inland spill response action that is inconsistent with~~
6 ~~the following:~~

7 ~~(A) The directions of the unified command, consisting of at~~
8 ~~least the Coast Guard and the administrator.~~

9 ~~(B) In the absence of a unified command, the directions of the~~
10 ~~administrator pursuant to Section 8670.27.~~

11 ~~(C) In the absence of directions pursuant to subparagraph (A)~~
12 ~~or (B), applicable oil spill contingency plans implemented under~~
13 ~~this division.~~

14 ~~(3) This section does not, in any manner or respect, affect or~~
15 ~~impair any cause of action against or any liability of a person or~~
16 ~~persons responsible for the spill or inland spill, for the discharged~~
17 ~~oil, or for the vessel, terminal, pipeline, or facility from which the~~
18 ~~oil was discharged. The responsible person or persons shall remain~~
19 ~~liable for any and all damages arising from the discharge, including~~
20 ~~damages arising from improperly carried out response efforts, as~~
21 ~~otherwise provided by law.~~

22 ~~(b) This section does not, in any manner or respect, affect or~~
23 ~~impair any cause of action against or any liability of a party or~~
24 ~~parties responsible for the spill or inland spill, or the responsible~~
25 ~~party's agents, employees, or subcontractors, except persons~~
26 ~~immunized under subdivision (a) for response efforts, for the~~
27 ~~discharged oil, or for the vessel, terminal, pipeline, or marine~~
28 ~~facility from which the oil was discharged.~~

29 ~~(e) The responsible party or parties shall be subject to both of~~
30 ~~the following:~~

31 ~~(1) Notwithstanding subdivision (b) or (i) of Section 8670.56.5,~~
32 ~~or any other provision of law, be strictly and jointly and severally~~
33 ~~liable for all damages arising pursuant to subdivision (h) of Section~~
34 ~~8670.56.5 from the response efforts of its agents, employees,~~
35 ~~subcontractors, or an oil spill cooperative of which it is a member~~
36 ~~or with which it has a contract or other arrangement for cleanup~~
37 ~~of its oil spills, unless it would have a defense to the original spill.~~

38 ~~(2) Remain strictly liable for any and all damages arising from~~
39 ~~the response efforts of a person other than a person specified in~~
40 ~~paragraph (1).~~

~~(d) This section does not immunize a cooperative or any other person from liability for acts of gross negligence or willful misconduct in connection with the cleanup of a spill or inland spill.~~

~~(e) This section does not apply to any action for personal injury or wrongful death.~~

~~(f) As used in this section, a “cooperative” means an organization of private persons that is established for the primary purpose and activity of preventing or rendering care, assistance, or advice in response to a spill or inland spill or threatened spill or inland spill.~~

~~(g) Except for the responsible party, membership in a cooperative shall not, in and of itself, be grounds for liability resulting from cleanup activities of the cooperative.~~

~~(h) For purposes of this section, there shall be a rebuttable presumption that an act or omission described in subdivision (a) was taken in good faith.~~

~~(i) In any situation in which immunity is granted pursuant to subdivision (a) and a responsible party is not liable, is not liable for noneconomic damages caused by another, or is partially or totally insolvent, the fund provided for in Article 7 (commencing with Section 8670.46) shall, in accordance with its terms, reimburse claims of an injured party for which a person who is granted immunity pursuant to this section would otherwise be liable.~~

~~(j) (1) The immunity granted by this section shall only apply to response efforts that are undertaken after the administrator certifies that contracts with qualified and responsible persons are in place to ensure an adequate and expeditious response to any foreseeable oil spill that may occur in marine waters for which the responsible party (A) cannot be identified or (B) is unable or unwilling to respond, contain, and clean up the spill or inland spill in an adequate and timely manner. In negotiating these contracts, the administrator shall, to the maximum extent practicable, procure the services of persons who are willing to respond to spills or inland spills with no, or lesser, immunity than that conferred by this section, but, in no event, a greater immunity. The administrator shall make the certification required by this subdivision on an annual basis. Upon certification, the immunity conferred by this section shall apply to all response efforts undertaken during the calendar year to which the certification applies. In the absence of the certification required by this subdivision, the immunity~~

1 conferred by this section shall not attach to any response efforts
2 undertaken by any person in marine waters.

3 (2) ~~In addition to the authority to negotiate contracts described~~
4 ~~in paragraph (1), the administrator may also negotiate and enter~~
5 ~~into indemnification agreements with qualified and financially~~
6 ~~responsible persons to respond to spills or inland spills that may~~
7 ~~occur in marine waters for which the responsible party (A) cannot~~
8 ~~be identified or (B) is unable or unwilling to respond, contain, and~~
9 ~~clean up the spill or inland spill in an adequate and timely manner.~~

10 (3) ~~The administrator may indemnify response contractors for~~
11 ~~(A) all damages payable by means of settlement or judgment that~~
12 ~~arise from response efforts to which the immunity conferred by~~
13 ~~this section would otherwise apply, and (B) reasonably related~~
14 ~~legal costs and expenses incurred by the responder, provided that~~
15 ~~indemnification shall only apply to response efforts undertaken~~
16 ~~after the expiration of any immunity that may exist as the result~~
17 ~~of the contract negotiations authorized in this subdivision. In~~
18 ~~negotiating these contracts, the administrator shall, to the maximum~~
19 ~~extent practicable, procure the services of persons who are willing~~
20 ~~to respond to spills or inland spills with no, or as little, right to~~
21 ~~indemnification as possible. All indemnification shall be paid by~~
22 ~~the administrator from the Oil Spill Response Trust Fund.~~

23 (4) (A) ~~The contracts required by this section, and any other~~
24 ~~contracts entered into by the administrator for response,~~
25 ~~containment, or cleanup of an existing spill, the payment of which~~
26 ~~is to be made from the Oil Spill Response Trust Fund created~~
27 ~~pursuant to Section 8670.46, or for response to an imminent threat~~
28 ~~of a spill, the payment of which is to be made out of the Oil Spill~~
29 ~~Prevention and Administration Fund created pursuant to Section~~
30 ~~8670.38, shall be exempt from Part 2 (commencing with Section~~
31 ~~10100) of Division 2 of the Public Contract Code and Article 6~~
32 ~~(commencing with Section 999) of Chapter 6 of Division 4 of the~~
33 ~~Military and Veterans Code.~~

34 (B) ~~The exemption specified in subparagraph (A) applies only~~
35 ~~to contracts for which the services are used for a period of less~~
36 ~~than 90 days, cumulatively, per year.~~

37 (C) ~~This paragraph does not limit the administrator's authority~~
38 ~~to exercise the emergency powers granted pursuant to subdivision~~
39 ~~(e) of Section 8670.62, including the authority to enter into~~

~~emergency contracts that are exempt from approval by the Department of General Services.~~

~~(k) (1) With regard to a person who is regularly engaged in the business of responding to spills or inland spills, the immunity conferred by this section shall not apply to any response efforts by that person that occur later than 60 days after the first day the person's response efforts commence.~~

~~(2) Notwithstanding the limitation contained in paragraph (1), the administrator may, upon making all the following findings, extend the period of time, not to exceed 30 days, during which the immunity conferred by this section applies to response efforts:~~

~~(A) Due to inadequate or incomplete containment and stabilization, there exists a substantial probability that the size of the spill or inland spill will significantly expand and (i) threaten previously uncontaminated marine or land resources, (ii) threaten already contaminated marine or land resources with substantial additional contamination, or (iii) otherwise endanger the public health and safety or harm the environment.~~

~~(B) The remaining work is of a difficult or perilous nature that extension of the immunity is clearly in the public interest.~~

~~(C) No other qualified and financially responsible contractor is prepared and willing to complete the response effort in the absence of the immunity, or a lesser immunity, as negotiated by contract.~~

~~(3) The administrator shall provide five days' notice of his or her proposed decision to either extend, or not extend, the immunity conferred by this section. Interested parties shall be given an opportunity to present oral and written evidence at an informal hearing. In making his or her proposed decision, the administrator shall specifically seek and consider the advice of the relevant Coast Guard representative. The administrator's decision to not extend the immunity shall be announced at least 10 working days before the expiration of the immunity to provide persons an opportunity to terminate their response efforts as contemplated by paragraph (4).~~

~~(4) A person or his or her agents, subcontractors, or employees shall not incur any liability under this chapter or any other provision of law solely as a result of that person's decision to terminate response efforts because of the expiration of the immunity conferred by this section. A person's decision to terminate response efforts because of the expiration of the~~

1 immunity conferred by this section shall not in any manner impair,
2 curtail, limit, or otherwise affect the immunity conferred on the
3 person with regard to the person's response efforts undertaken
4 during the period of time the immunity applied to those response
5 efforts.

6 ~~(5) The immunity granted under this section shall attach, without~~
7 ~~the limitation contained in this subdivision, to the response efforts~~
8 ~~of any person who is not regularly engaged in the business of~~
9 ~~responding to spills or inland spills. A person who is not regularly~~
10 ~~engaged in the business of responding to spills or inland spills~~
11 ~~includes, but is not limited to, (A) a person who is primarily~~
12 ~~dedicated to the preservation and rehabilitation of wildlife and (B)~~
13 ~~a person who derives his or her livelihood primarily from fishing.~~

14 ~~(f) As used in this section, "response efforts" means rendering~~
15 ~~care, assistance, or advice in accordance with the National~~
16 ~~Contingency Plan, the California oil spill contingency plan, or at~~
17 ~~the direction of the administrator, onsite coordinator, or the Coast~~
18 ~~Guard in response to a spill or threatened spill into marine waters.~~

19 SEC. 10. Section 8670.61.5 of the Government Code is
20 amended to read:

21 8670.61.5. (a) For purposes of this chapter, "wildlife
22 rehabilitation" means those actions that are necessary to fully
23 mitigate for the damage caused to wildlife, fisheries, wildlife
24 habitat, and fisheries habitat, including beaches, from a spill or
25 inland spill.

26 (b) Responsible parties shall fully mitigate adverse impacts to
27 wildlife, fisheries, wildlife habitat, and fisheries habitat. Full
28 mitigation shall be provided by successfully carrying out
29 environmental projects or funding restoration activities required
30 by the administrator in carrying out projects complying with the
31 requirements of this section. Responsible parties are also liable
32 for the costs incurred by the administrator or other government
33 agencies in carrying out this section.

34 (c) If any significant wildlife rehabilitation is necessary, the
35 administrator may require the responsible party to prepare and
36 submit a wildlife rehabilitation plan to the administrator. The plan
37 shall describe the actions that will be implemented to fully meet
38 the requirements of subdivision (b), describe contingency measures
39 that will be carried out in the event that any of the plan actions are
40 not fully successful, provide a reasonable implementation schedule,

1 describe the monitoring and compliance program, and provide a
2 financing plan. The administrator shall review and determine
3 whether to approve the plan within 60 days of submittal. Before
4 approving a plan, the administrator shall first find that the
5 implementation of the plan will fully mitigate the adverse impacts
6 to wildlife, fisheries, wildlife habitat, and fisheries habitat. If the
7 habitat contains beaches that are or were used for recreational
8 purposes, the Department of Parks and Recreation shall review
9 the plan and provide comments to the administrator.

10 (d) The plan shall place first priority on avoiding and minimizing
11 any adverse impacts. For impacts that do occur, the plan shall
12 provide for full onsite restoration of the damaged resource to the
13 extent feasible. To the extent that full onsite restoration is not
14 feasible, the plan shall provide for offsite in-kind mitigation to the
15 extent feasible. To the extent that adverse impacts still have not
16 been fully mitigated, the plan shall provide for the enhancement
17 of other similar resources to the extent necessary to meet the
18 requirements of subdivision (b). In evaluating whether a wildlife
19 rehabilitation plan is adequate, the administrator may use the
20 habitat evaluation procedures established by the United States Fish
21 and Wildlife Service or any other reasonable methods as
22 determined by the Director of Fish and Game.

23 (e) The administrator shall prepare regulations to implement
24 this section. The regulations shall include deadlines for the
25 submittal of plans. In establishing the deadlines, the administrator
26 shall consider circumstances such as the size of the spill and the
27 time needed to assess damage and mitigation.

28 SEC. 11. Section 8670.63 of the Government Code is amended
29 to read:

30 8670.63. (a) No provision of this chapter, or of Division 7.8
31 (commencing with Section 8750) of the Public Resources Code,
32 or any ruling of the administrator, shall be construed to limit,
33 abridge, or supersede the power of the Attorney General, at the
34 request of the administrator, or upon his or her own motion, to
35 bring an action in the name of the people of the State of California
36 to enjoin any violation of this act, seek necessary remedial action
37 by any person who violates any of the provisions of this act, or
38 seek civil and criminal penalties against any person who violates
39 any of the provisions of this act.

1 (b) The Attorney General, at the request of the administrator,
2 shall undertake actions to enforce this chapter and to recover from
3 an owner, operator, or responsible party for a release of oil into
4 state waters all expenditures made from a particular fund. The
5 resolution of any recovery actions pursuant to this subdivision
6 shall be approved by the administrator.

7 SEC. 12. Section 8670.66 of the Government Code is amended
8 to read:

9 8670.66. (a) Any person who intentionally or negligently does
10 any of the following acts shall be subject to a civil penalty for a
11 spill of not less than fifty thousand dollars (\$50,000) or more than
12 one million dollars (\$1,000,000), or for an inland spill not to exceed
13 fifty thousand dollars (\$50,000), for each violation, and each day
14 or partial day that a violation occurs is a separate violation:

15 (1) Except as provided in Section 8670.27, fails to follow the
16 direction or orders of the administrator in connection with a spill
17 or inland spill.

18 (2) Fails to notify the Coast Guard that a vessel is disabled
19 within one hour of the disability and the vessel, while disabled,
20 causes a spill that enters marine waters. For the purposes of this
21 paragraph, “vessel” means a vessel, as defined in Section 21 of
22 the Harbors and Navigation Code, of 300 gross registered tons or
23 more.

24 (3) Is responsible for a spill or inland spill, unless the discharge
25 is authorized by the United States, the state, or other agency with
26 appropriate jurisdiction.

27 (4) Fails to begin cleanup, abatement, or removal of oil as
28 required in Section 8670.25.

29 (b) Except as provided in subdivision (a), any person who
30 intentionally or negligently violates any provision of this chapter,
31 or Division 7.8 (commencing with Section 8750) of the Public
32 Resources Code, or any permit, rule, regulation, standard, or
33 requirement issued or adopted pursuant to those provisions, shall
34 be liable for a civil penalty not to exceed two hundred fifty
35 thousand dollars (\$250,000) for each violation of a separate
36 provision, or, for continuing violations, for each day that violation
37 continues.

38 (c) No person shall be liable for a civil penalty imposed under
39 this section and for a civil penalty imposed pursuant to Section
40 8670.67 for the same act or failure to act.

SEC. 13. Section 8670.67 of the Government Code is amended to read:

8670.67. (a) Any person who intentionally or negligently does any of the following acts shall be subject to an administrative civil penalty for a spill not to exceed two hundred thousand dollars (\$200,000), or for an inland spill not to exceed fifty thousand dollars (\$50,000), for each violation as imposed by the administrator pursuant to Section 8670.68, and each day or partial day that a violation occurs is a separate violation:

(1) Except as provided in Section 8670.27, fails to follow the applicable contingency plans or the direction or orders of the administrator in connection with an oil spill.

(2) Fails to notify the Coast Guard that a vessel is disabled within one hour of the disability and the vessel, while disabled, causes a discharge that enters marine waters or inland waters. For the purposes of this paragraph, "vessel" means a vessel, as defined in Section 21 of the Harbors and Navigation Code, of 300 gross registered tons or more.

(3) Is responsible for a spill or inland spill, unless the discharge is authorized by the United States, the state, or other agency with appropriate jurisdiction.

(4) Fails to begin cleanup, abatement, or removal of spilled oil as required by Section 8670.25.

(b) Except as provided in subdivision (a), any person who intentionally or negligently violates any provision of this chapter, or Division 7.8 (commencing with Section 8750) of the Public Resources Code, or any permit, rule, regulation, standard, cease and desist order, or requirement issued or adopted pursuant to those provisions, shall be liable for an administrative civil penalty as imposed by the administrator pursuant to Section 8670.68, not to exceed one hundred thousand dollars (\$100,000) for each violation of a separate provision, or, for continuing violations, for each day that violation continues.

(c) No person shall be liable for a civil penalty imposed under this section and for a civil penalty imposed pursuant to Section 8670.66 for the same act or failure to act.

SEC. 14. Section 8670.67.5 of the Government Code is amended to read:

1 8670.67.5. (a) Any person who without regard to intent or
2 negligence causes or permits a spill or inland spill shall be strictly
3 liable civilly in accordance with subdivision (b) or (c).

4 (b) A penalty may be administratively imposed by the
5 administrator in accordance with Section 8670.68 in an amount
6 not to exceed ten dollars (\$10) per gallon of oil released for an
7 inland spill, and in an amount not to exceed twenty dollars (\$20)
8 per gallon for a spill. The amount of the penalty shall be reduced
9 for every gallon of released oil that is recovered and properly
10 disposed of in accordance with applicable law.

11 (c) Whenever the release of oil resulted from gross negligence
12 or reckless conduct, the administrator shall, in accordance with
13 Section 8670.68, impose a penalty in the amount of thirty dollars
14 (\$30) per gallon of oil released for an inland spill, and in an amount
15 not to exceed sixty dollars (\$60) for a spill. The amount of the
16 penalty shall be reduced for every gallon of released oil that is
17 recovered and properly disposed of in accordance with applicable
18 law.

19 (d) The administrator shall adopt regulations governing the
20 method for determining the amount of oil that is cleaned up.

21 SEC. 15. Section 8670.69.7 is added to the Government Code,
22 to read:

23 8670.69.7. All penalties collected under this article for inland
24 spills shall be deposited into the Fish and Wildlife Pollution
25 Account in the Fish and Game Preservation Fund and be available
26 for expenditure in accordance with Section 12017 of the Fish and
27 Game Code.

28 *SEC. 16. Section 4.5 of this bill incorporates amendments to*
29 *Section 8670.3 of the Government Code proposed by both this bill*
30 *and AB 2547. It shall only become operative if (1) both bills are*
31 *enacted and become effective on or before January 1, 2009, (2)*
32 *each bill amends Section 8670.3 of the Government Code, and (3)*
33 *this bill is enacted after AB 2547, in which case Section 4 of this*
34 *bill shall not become operative.*

35 *SEC. 17. Section 7.5 of this bill incorporates amendments to*
36 *Section 8670.40 of the Government Code proposed by both this*
37 *bill and AB 2032. It shall only become operative if (1) both bills*
38 *are enacted and become effective on or before January 1, 2009,*
39 *(2) each bill amends Section 8670.40 of the Government Code,*

1 *and (3) this bill is enacted after AB 2032, in which case Section 7*
2 *of this bill shall not become operative.*
3 *SEC. 18. Section 8.5 of this bill incorporates amendments to*
4 *Section 8670.48 of the Government Code proposed by both this*
5 *bill and AB 2547. It shall only become operative if (1) both bills*
6 *are enacted and become effective on or before January 1, 2009,*
7 *(2) each bill amends Section 8670.48 of the Government Code,*
8 *and (3) this bill is enacted after AB 2547, in which case Section 8*
9 *of this bill shall not become operative.*

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